

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

UNITED STATES OF AMERICA :

Plaintiff, : **CASE NO. 3:06CR129**

V. : **JUDGE THOMAS M. ROSE**

ROBERT ROTH :

Defendant.

**AGREED ORDER UNITED STATES WILL NOT SEEK
FINAL ORDER OF FORFEITURE OF THE 321 ACRES IN WYOMING,
INSTEAD FORFEITURE WILL BE LITIGATED THROUGH
THE PARALLEL CIVIL FORFEITURE ACTION**

This matter is before the Court upon Fifth Third Bank's Amended Petition Respecting Forfeiture of Real Property known as 321 Acres in Wyoming (hereinafter referred to as "321 Acres of Property in Wyoming")(Doc. 56) and Fifth Third Bank's Motion for Discovery/Order to Commence (Doc. 62), wherein Fifth Third Bank seeks to commence discovery related to the forfeiture of the 321 Acres of Property in Wyoming, and the parties have agreed as follows:

1. Rather than litigating Fifth Third Bank's Amended Petition against the 321 Acres of Property in Wyoming in an ancillary proceeding in this criminal case, the United States will not

seek a Final Order of Forfeiture in this action, and instead the parties have agreed to litigate the forfeiture in the related civil action, United States v. Roth Claimants, Case No.

3:03CV064WHR.

2. As the underlying criminal investigation and prosecution have been completed, the United States will notify the Court in United States v. Roth Claimants, Case 3:03CV064WHR, that the investigation and prosecution have been completed, and will file a Motion to Lift the Stay and proceed with the civil forfeiture action.

3. The United States has agreed with Fifth Third Bank not to assert any claim in United States v. Roth Claimants, Case No. 3:03CV064WHR, and hereby waives any argument, that the Claim of Joan R. Herschede, now deceased, filed in that case, should be dismissed as being filed out of time.

4. The parties further have agreed that until such time as the Court in United States v. Roth Claimants, Case No. 3:03CV064WHR, has decided the merits of the Claim of Joan R. Herschede, now deceased, which will now be prosecuted by her successor, Fifth Third Bank, none of the 321 Acres of Property in Wyoming may be sold, leased, transferred, developed, improved or altered in any way, by any entity or individual, without that Court's prior approval and Court Order.

5. Accordingly, based on the foregoing, a Final Order of Forfeiture as to the 321 Acres in Wyoming shall not be entered, and the ancillary proceedings in this case for the forfeiture of the 321 Acres of Property in Wyoming are hereby dismissed.

IT IS SO ORDERED this Twentieth day of August, 2009.

s/Thomas M. Rose

THOMAS M. ROSE
United States District Court Judge

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